THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 27341 of 2005

Dated: 25.01.2007

Between:

B. Subrahmanyam, S/o Kotesu, D.No.36-92-52, L.B. Nagar, Kancharapalem, Visakhapatnam.

..... PETITIONER

AND

The Chief Mechanical Engineer, Visakhapatnam Port Trust, Visakhapatnam.

.....RESPONDENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 27341 of 2005

Order:

Questioning the action of the respondent, namely the Chief Mechanical Engineer, Visakhapatnam Port Trust, Visakhapatnam, in initiating domestic enquiry against the petitioner, vide impugned memo dated 30.08.2005, alleging that he obtained job by giving a false declaration that he belongs to Scheduled Tribe-Konda Kapu Community, the present writ petition is filed.

The facts, which are necessary for disposal of the writ petition, are that the petitioner, at the time of his initial appointment in the respondent-organization in the year 1972, declared in the Attestation Form that he belongs to Konda Kapu-Scheduled Tribe Community and secured appointment. Subsequently, based on a complaint, the respondent-Organization directed the petitioner, through letters dated 17.08.1996 and 29.10.1996, to produce his original Caste Certificate for the purpose of verification, and as the petitioner failed to submit his original Caste Certificate, as called for by the respondent-Organization, he was issued with a charge memo for non-submission of Caste Certificate and on conclusion of the enquiry proceedings the petitioner was imposed with the penalty of reduction in pay by four stages for a period of one year without cumulative effect, vide proceedings, dated 14.12.2000. Thereafter, the matter was referred to the District Collector, Visakhapatnam, to ascertain the social status of the

petitioner, who in turn, referred the matter to the District Level Scrutiny Committee headed by the Joint Collector, and on receipt of the report from the Joint Collector, the District Collector, vide proceedings, dated 14.09.2005, certified that the petitioner does not belong to Scheduled Tribe-Konda Kapu Community. Based on the said proceedings, the petitioner was issued with the impugned Memorandum of Charge, dated 30.08.2005, for giving a false declaration at the time of his initial appointment that he belongs to Scheduled Tribe-Konda Kapu Community, which is the subject matter of the present writ petition.

The main contention of the learned counsel for the petitioner is that for the same charges, the petitioner was earlier charge sheeted on 26.08.1999, and after due enquiry he was also imposed a penalty of reduction of pay by four stages for a period of one year without cumulative effect, vide proceedings, dated 14.12.2000, and now again issuing the second charge and initiating domestic enquiry against the petitioner on the same set of charges, vide impugned memo, is illegal and arbitrary.

On the other hand, learned Standing Counsel for the respondent-Organization, reiterating the counter averments, submits that the nature of charges in the previous Memorandum of Charge, dated 26.08.1999, and the present Memorandum of Charge, dated 30.08.2005 are entirely distinct and different and they cannot be clubbed together. He, thus, prays to dismiss the writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Organization.

A perusal of the record would show that the first charge sheet, dated 26.08.1999 was issued against the petitioner for non-submission of S.T. Certificate when called for by the respondent-Organization. Whereas, the impugned second charge sheet, dated 30.08.2005 was

issued against the petitioner for giving false declaration at the time of his initial appointment that he belongs to Konda Kapu-Scheduled Tribe Community. Thus, it is clear that the charges, framed against the petitioner vide previous Memorandum of Charge, dated 26.08.1999, and the present Memorandum of charge, dated 30.08.2005, are entirely distinct and different. In the circumstances, the contention of the learned counsel for the petitioner that the respondent-Organization initiated the present enquiry against the petitioner on the same set of charges, on which the petitioner was earlier imposed a penalty, cannot be accepted, and I see no reasons to interfere with the impugned memo issued by the respondent-Organization.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 25.01.2007
Nsr/Sj